

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR

SENATE BILL NO. 112

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Offered March 27, 2007.

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TERRY L. SPIELER, Secretary.

0591S.06P

AN ACT

To repeal sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 162.700, and 376.1218, RSMo, and to enact in lieu thereof eleven new sections relating to special education, with an expiration date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 162.700, and 376.1218, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, 160.932, 160.933, 162.700, and 376.1218, to read as follows:

160.900. 1. The state of Missouri shall participate in the federal Infant and Toddler Program, Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1431, et seq., and provide early intervention services to infants and toddlers determined eligible under state regulations.

2. The state agency designated by the governor as the lead agency shall be responsible for the administration and implementation of Part C of IDEA through a regional Part C early intervention system and shall promulgate rules implementing the requirements of Part C of IDEA consistent with federal regulations, 34 C.F.R. 303, et seq.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 160.900 to

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 160.925 shall become effective only if it complies with and is subject to all of the
13 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
14 RSMo. Sections 160.900 to 160.925 and chapter 536, RSMo, are nonseverable and
15 if any of the powers vested with the general assembly pursuant to chapter 536,
16 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
17 subsequently held unconstitutional, then the grant of rulemaking authority and
18 any rule proposed or adopted after July 1, 2005, shall be invalid and void.

19 **4. Notwithstanding the provisions of section 23.253, RSMo, to the**
20 **contrary, the provisions of this section shall not sunset.**

160.905. 1. The lead agency shall establish a "State Interagency
2 Coordinating Council" for the state Part C early intervention system. The
3 composition of the council shall include the members required under Part C of the
4 IDEA consistent with federal regulations, 34 C.F.R. 303.601, appointed by the
5 governor.

6 2. The state interagency coordinating council shall meet at least quarterly
7 and shall comply with chapter 610, RSMo.

8 3. The state interagency coordinating council shall advise and assist the
9 lead agency pursuant to IDEA requirements, 34 C.F.R. 303.650 to 303.654.

10 4. The state interagency coordinating council shall assist the lead agency
11 in the preparation and submission of an annual report to the governor and to the
12 secretary of the United States Department of Education on the status of infant
13 and toddler early intervention programs in the state and report any
14 recommendations for improvements to such programs.

15 5. The lead agency, in consultation with any other state agencies involved
16 in the Part C early intervention system, shall submit rules and regulations, other
17 than emergency rules and regulations, to the council for review prior to the lead
18 agency's final approval. The council shall review all proposed rules and
19 regulations and report its recommendations thereon to the lead agency within
20 thirty days. The lead agency shall respond to the council's recommendations
21 providing reasons for proposed rules and regulations that are not consistent with
22 the council's recommendations.

23 **6. Notwithstanding the provisions of section 23.253, RSMo, to the**
24 **contrary, the provisions of this section shall not sunset.**

160.910. 1. The lead agency shall maintain a state Part C early
2 intervention system under Part C of the Individuals with Disabilities Education
3 Act, 20 U.S.C. Section 1431, et seq., for eligible children and families of such

4 children which shall be administered through the regional Part C early
5 intervention system.

6 2. The lead agency shall compile data in the system on the number of
7 eligible children in the state in need of early intervention services, the number
8 of eligible children and their families served, the types of services provided, and
9 other information as deemed necessary by the agency.

10 3. The state Part C early intervention system shall include a
11 comprehensive child-find system and public awareness program to ensure that
12 eligible children are identified, located, referred to the system, and evaluated for
13 eligibility.

14 4. The lead agency shall monitor system expenditures for administrative
15 services and regional offices to ensure maximum utilization of state funds for all
16 children determined to be eligible for early intervention services. The lead
17 agency or its designee shall provide regional offices with the necessary financial
18 data to assist regional offices in monitoring their expenditures and the cost of
19 direct services. Such data shall include the number of children eligible from the
20 most recent child count from that region and monthly data reports on the costs
21 spent by providers in their network.

22 5. The lead agency shall establish a bidding process for determining
23 regional offices across the state. The bidding process shall establish criteria for
24 allowing regions to implement models that will serve the unique needs of their
25 community. Such process shall encourage organizations bidding for a center to
26 demonstrate agreements:

27 (1) With other state and local government entities that provide services
28 to infants and toddlers with developmental disabilities including regional centers
29 as defined in section 633.005, RSMo, and boards established under sections
30 205.968 to 205.973, RSMo; and

31 (2) To collaborate with established, quality early intervention providers
32 in the region to establish a network for early intervention services.

33 6. The lead agency shall establish a centralized system of provider
34 enrollment to assure that all Part C early intervention system providers meet
35 requirements of Part C regulations and the Missouri state plan.

36 **7. Notwithstanding the provisions of section 23.253, RSMo, to the**
37 **contrary, the provisions of this section shall not sunset.**

160.915. 1. Each regional office shall include in their proposal the
2 following assurances and documentation of their plan to:

3 (1) Provide those functions that are specifically identified under federal
4 and state regulations implementing Part C of IDEA, 20 U.S.C. Section 1431, as
5 functions to be provided at public expense, with no cost to the parent;

6 (2) Contract with established community early intervention providers or
7 hire providers as geographic necessity requires to ensure all services are available
8 and accessible within the region;

9 (3) Implement a system of provider oversight to ensure:

10 (a) That all services are available and accessible within that region
11 including the use of providers hired by the regional office where geographic
12 necessity requires this practice; and

13 (b) Compliance by all providers in the regional office's provider network,
14 including but not limited to upholding the requirements of Part C of IDEA;

15 (4) Include in each child's individual family service plan family-oriented
16 approaches to support the child's developmental goals;

17 (5) Incorporate as the focus of the individualized family service plan best
18 available practices and coaching approaches that support the family's capacity to
19 meet the developmental needs of their child;

20 (6) Develop or maintain resources or utilize multiple funding sources for
21 providing early intervention services for children with disabilities in the region
22 for which they are bidding; and

23 (7) Implement a system for reutilization of assistive technology devices
24 and oversight of assistive technology authorizations.

25 2. The lead agency may determine other assurances and request
26 additional documentation they deem to be necessary and reasonable to achieve
27 the purpose of this section and to comply with applicable federal law and
28 regulation.

29 **3. Notwithstanding the provisions of section 23.253, RSMo, to the**
30 **contrary, the provisions of this section shall not sunset.**

160.920. 1. No funds appropriated to the lead agency for the
2 implementation and administration of sections 160.900 to 160.925 shall be used
3 to satisfy a financial commitment for services that should have been paid from
4 another public or private source. Federal funds available under Part C of the
5 IDEA, 20 U.S.C. Section 1431, et seq., shall be used whenever necessary to
6 prevent the delay of early intervention services to the eligible child or
7 family. When funds are used to reimburse the service provider to prevent a delay
8 of the provision of services, the funds shall be recovered from the public or

9 private source that has ultimate responsibility for the payment.

10 2. Nothing in this section shall be construed to permit any other state
11 agency providing medically related services to reduce medical assistance to
12 eligible children.

13 3. Payments for the provision of direct early intervention services to
14 children and families shall be paid in the manner prescribed by the lead agency.

15 4. The lead agency shall promulgate rules for the reimbursement of
16 services from all third-party payers, both private and public.

17 5. The lead agency or its designee shall, in the first instance and where
18 applicable, seek payment from all third-party payers prior to claiming payment
19 from the state Part C early intervention system for services rendered to eligible
20 children.

21 6. The lead agency or its designee may pay required deductibles,
22 co-payments, coinsurance or other out-of-pocket expenses for a Part C early
23 intervention program eligible child directly to a provider.

24 7. The lead agency shall promulgate rules that establish a schedule of
25 monthly cost participation fees for early intervention services per qualifying
26 family regardless of the number of children participating or the amount of
27 services provided. Such fees shall not include services to be provided to the
28 family at no cost as established in Part C of IDEA, 20 U.S.C. Section 1431, et
29 seq. Fees shall be based on a sliding scale to become effective October 1, 2005,
30 that contemplates the following elements:

31 (1) Adjusted gross income, family size, financial hardship and Medicaid
32 eligibility with the fee implementation beginning at two hundred percent of the
33 federal poverty guidelines;

34 (2) A minimum fee amount of five dollars to the maximum amount of one
35 hundred dollars monthly, with the lead agency retaining the right to revise the
36 fee schedule no earlier than the third year after the family cost participation
37 effective date;

38 (3) An increased fee schedule for parents who have insurance and elect
39 not to assign such right of recovery or indemnification to the lead agency;

40 (4) Procedures for notifying the regional office that a family is not
41 complying with the cost participation fee and procedures for suspending services.

42 8. All amounts generated by family cost participation, insurance
43 reimbursements, and Medicaid reimbursement shall be deposited to the fund
44 created in section 160.925.

45 9. The lead agency may assign the collection of early intervention
46 participation fees, payments, and public or private insurance to a designee,
47 contractor, provider, third-party agent, or designated clearinghouse participating
48 in the Part C early intervention system. Such fees, payments, or insurance
49 amounts shall be paid to the department, its designee, contractor, provider,
50 third-party agent, or designated clearinghouse in a timely manner. Notice of
51 collection procedures, schedule of fees or payments, and guidelines for inability
52 to pay shall be made available to parents of eligible children.

53 **10. Notwithstanding the provisions of section 23.253, RSMo, to**
54 **the contrary, the provisions of this section shall not sunset.**

160.925. 1. There is hereby created in the state treasury the "Part C
2 Early Intervention System Fund" for implementing the provisions of sections
3 160.900 to 160.925. Moneys deposited in the fund shall be considered state funds
4 under article IV, section 15 of the Missouri Constitution. The state treasurer
5 shall be custodian of the fund and shall disburse moneys from the fund in
6 accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money
7 in the fund shall be used solely for the administration of sections 160.900 to
8 160.925. [Notwithstanding the provisions of section 33.080, RSMo, to the
9 contrary, any moneys remaining in the fund at the end of the biennium shall not
10 revert to the credit of the general revenue fund.] The state treasurer shall invest
11 moneys in the fund in the same manner as other funds are invested. Any interest
12 and moneys earned on such investments shall be credited to the fund.

13 **2. At the end of each biennium and after all statutorily or**
14 **constitutionally required transfer of funds have been made, the state**
15 **treasurer shall transfer the balance in the fund, except for gifts,**
16 **donations, bequests, or money received from a federal source, created**
17 **in subsection 1 of this section in excess of two hundred percent of the**
18 **previous fiscal year's expenditures into the state general revenue fund.**

19 **3. Notwithstanding the provisions of section 23.253, RSMo, to the**
20 **contrary, the provisions of this section shall not sunset.**

160.930. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

2 (1) The provisions of the program authorized under sections 160.900 to
3 160.925[, section 162.700, RSMo,] and section 376.1218, RSMo, shall
4 automatically sunset two years after August 28, 2005, unless reauthorized by an
5 act of the general assembly; and

6 (2) If such program is reauthorized, the program authorized under

7 sections 160.900 to 160.925[, section 162.700, RSMo,] and section 376.1218,
8 RSMo, shall automatically sunset twelve years after the effective date of the
9 reauthorization of sections 160.900 to 160.925, [section 162.700, RSMo,] and
10 section 376.1218, RSMo; and

11 (3) Sections 160.900 to 160.925[, section 162.700, RSMo,] and section
12 376.1218, RSMo, shall terminate on September first of the calendar year
13 immediately following the calendar year in which the program authorized under
14 sections 160.900 to 160.925[, section 162.700, RSMo,] and section 376.1218,
15 RSMo, is sunset.

**160.932. 1. Subject to appropriations, the department of
2 elementary and secondary education shall implement a pilot program
3 allowing the regional interagency coordinating council of the greater
4 St. Louis system point of entry to hire a part-time child-find
5 coordinator to conduct the child-find requirements under subsection
6 3 of section 160.910 for the region. The part-time child-find coordinator
7 shall be hired, selected, and employed by the regional interagency
8 coordinating council of the greater St. Louis system point of entry by
9 July 1, 2008.**

10 **2. By September 1, 2010, the greater St. Louis system point of**
11 **entry shall conduct a study on the effect of hiring the child-find**
12 **coordinator under this section. The study shall be submitted to the**
13 **department, the state interagency coordinating council and the general**
14 **assembly.**

15 **3. The provisions of this section shall expire on September 1,**
16 **2011.**

**160.933. 1. There is hereby created in the state treasury the
2 "Part C Early Intervention Pilot Program Fund" for implementing the
3 provisions of section 160.932. Moneys deposited in the fund shall be
4 considered state funds under article IV, section 15 of the Missouri
5 constitution. The state treasurer shall be custodian of the fund and
6 may disburse moneys from the fund in accordance with sections 30.170
7 and 30.180, RSMo. Upon appropriation, money in the fund shall be used
8 solely for administration of section 160.932. The state treasurer shall
9 invest moneys in the fund in the same manner as other funds are
10 invested. Any interest and moneys earned on such investments shall be
11 credited to the fund.**

12 **2. At the end of each biennium and after all statutorily or**

13 **constitutionally required transfer of funds have been made, the state**
14 **treasurer shall transfer the balance in the fund, except for gifts,**
15 **donations, bequests, or money received from a federal source, created**
16 **in subsection 1 of this section in excess of two hundred percent of the**
17 **previous fiscal year's expenditures into the state general revenue fund.**

18 **3. The department of elementary and secondary education shall**
19 **promulgate rules to implement the provisions of sections 160.931 and**
20 **160.932. Any rule or portion of a rule, as that term is defined in section**
21 **536.010, RSMo, that is created under the authority delegated in this**
22 **section shall become effective only if it complies with and is subject to**
23 **all of the provisions of chapter 536, RSMo, and, if applicable, section**
24 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
25 **and if any of the powers vested with the general assembly under**
26 **chapter 536, RSMo, to review, to delay the effective date, or to**
27 **disapprove and annul a rule are subsequently held unconstitutional,**
28 **then the grant of rulemaking authority and any rule proposed or**
29 **adopted after August 28, 2007, shall be invalid and void.**

162.700. 1. The board of education of each school district in this state,
2 except school districts which are part of a special school district, and the board
3 of education of each special school district shall provide special educational
4 services for [handicapped] **developmentally delayed** children three years of
5 age or more residing in the district as required by P.L. 99-457, as codified and as
6 may be amended. Any child, determined to be [handicapped] **developmentally**
7 **delayed**, shall be eligible for such services upon reaching his or her third
8 birthday and state school funds shall be apportioned accordingly. This subsection
9 shall apply to each full school year beginning on or after July 1, 1991. In the
10 event that federal funding fails to be appropriated at the authorized level as
11 described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating
12 to services for [handicapped] **developmentally delayed** children three and four
13 years of age may be delayed until such time as funds are appropriated to meet
14 such level. Each local school district and each special school district shall be
15 responsible to engage in a planning process to design the service delivery system
16 necessary to provide special education and related services for children three and
17 four years of age [with handicaps] **who are developmentally delayed**. The
18 planning process shall include public, private, and private not-for-profit agencies
19 which have provided such services for this population. The school district, or

20 school districts, or special school district, shall be responsible for designing an
21 efficient service delivery system which uses the present resources of the local
22 community which may be funded by the department of elementary and secondary
23 education or the department of mental health. School districts may coordinate
24 with public, private, and private not-for-profit agencies presently in
25 existence. The service delivery system shall be consistent with the requirements
26 of the department of elementary and secondary education to provide appropriate
27 special education services in the least restrictive environment.

28 2. Every local school district or, if a special district is in operation, every
29 special school district shall obtain current appropriate diagnostic reports for each
30 **[handicapped] developmentally delayed** child prior to assignment in a special
31 program. These records may be obtained with parental permission from previous
32 medical or psychological evaluation, may be provided by competent personnel of
33 such district or special district, or may be secured by such district from competent
34 and qualified medical, psychological, or other professional personnel.

35 3. Evaluations of private school students suspected of having a disability
36 under the Individuals With Disabilities Education Act will be conducted as
37 appropriate by the school district in which the private school is located or its
38 contractor.

39 4. Where special districts have been formed to serve **[handicapped]**
40 **developmentally delayed** children under the provisions of sections 162.670 to
41 162.995, such children shall be educated in programs of the special district,
42 except that component districts may provide education programs for
43 **[handicapped] developmentally delayed** children ages three and four inclusive
44 in accordance with regulations and standards adopted by the state board of
45 education.

46 5. For the purposes of this act, remedial reading programs are not a
47 special education service as defined by subdivision (4) of section 162.675.

48 6. Any and all state costs required to fund special education services for
49 three- and four-year-old children **[pursuant to] under** this section shall be
50 provided for by a specific, separate appropriation and shall not be funded by a
51 reallocation of money appropriated for the public school foundation program.

52 7. School districts providing early childhood special education shall give
53 consideration to the value of continuing services with Part C early intervention
54 system providers for the remainder of the school year when developing an
55 individualized education program for a student who has received services

56 [pursuant to] **under** Part C of the Individuals With Disabilities Education Act
57 and reaches the age of three years during a regular school year. Services
58 provided shall be only those permissible according to Section 619 of the
59 Individuals with Disabilities Education Act.

60 8. Any rule or portion of a rule, as that term is defined in section 536.010,
61 RSMo, that is created under the authority delegated in this section shall become
62 effective only if it complies with and is subject to all of the provisions of chapter
63 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
64 536, RSMo, are nonseverable and if any of the powers vested with the general
65 assembly [pursuant to] **under** chapter 536, RSMo, to review, to delay the
66 effective date or to disapprove and annul a rule are subsequently held
67 unconstitutional, then the grant of rulemaking authority and any rule proposed
68 or adopted after August 28, 2002, shall be invalid and void.

376.1218. 1. Any health carrier or health benefit plan that offers or
2 issues health benefit plans, other than Medicaid health benefit plans, which are
3 delivered, issued for delivery, continued, or renewed in this state on or after
4 January 1, 2006, shall provide coverage for early intervention services described
5 in this section that are delivered by early intervention specialists who are health
6 care professionals licensed by the state of Missouri and acting within the scope
7 of their professions for children from birth to age three identified by the Part C
8 early intervention system as eligible for services under Part C of the Individuals
9 with Disabilities Education Act, 20 U.S.C. Section 1431, et seq. Such coverage
10 shall be limited to three thousand dollars for each covered child per policy per
11 calendar year, with a maximum of nine thousand dollars per child.

12 2. As used in this section, "health carrier" and "health benefit plan" shall
13 have the same meaning as such terms are defined in section 376.1350.

14 3. In the event that any health benefit plan is found not to be required to
15 provide coverage under subsection 1 of this section because of preemption by a
16 federal law, including but not limited to the act commonly known as ERISA
17 contained in Title 29 of the United States Code, or in the event that subsection
18 1 of this section is found to be unconstitutional, then the lead agency shall be
19 responsible for payment and provision of any benefit provided under this section.

20 4. For purposes of this section, "early intervention services" means
21 medically necessary speech and language therapy, occupational therapy, physical
22 therapy, and assistive technology devices for children from birth to age three who
23 are identified by the Part C early intervention system as eligible for services

24 under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section
25 1431, et seq. Early intervention services shall include services under an active
26 individualized family service plan that enhance functional ability without
27 effecting a cure. An individualized family service plan is a written plan for
28 providing early intervention services to an eligible child and the child's family
29 that is adopted in accordance with 20 U.S.C. Section 1436. The Part C early
30 intervention system, on behalf of its contracted regional Part C early intervention
31 system centers and providers, shall be considered the rendering provider of
32 services for purposes of this section.

33 5. No payment made for specified early intervention services shall be
34 applied by the health carrier or health benefit plan against any maximum
35 lifetime aggregate specified in the policy or health benefit plan if the carrier opts
36 to satisfy its obligations under this section under subdivision (2) of subsection 7
37 of this section. A health benefit plan shall be billed at the applicable Medicaid
38 rate at the time the covered benefit is delivered, and the health benefit plan shall
39 pay the Part C early intervention system at such rate for benefits covered by this
40 section. Services under the Part C early intervention system shall be delivered
41 as prescribed by the individualized family service plan and an electronic claim
42 filed in accordance with the carrier's or plan's standard format. Beginning
43 January 1, 2007, such claims' payments shall be made in accordance with the
44 provisions of sections 376.383 and 376.384.

45 6. The health care service required by this section shall not be subject to
46 any greater deductible, co-payment, or coinsurance than other similar health care
47 services provided by the health benefit plan.

48 7. (1) Subject to the provisions of this section, payments made during a
49 calendar year by a health carrier or group of carriers affiliated by or under
50 common ownership or control to the Part C early intervention system for services
51 provided to children covered by the Part C early intervention system shall not
52 exceed one-half of one percent of the direct written premium for health benefit
53 plans as reported to the department of insurance on the health carrier's most
54 recently filed annual financial statement.

55 (2) In lieu of reimbursing claims under this section, a carrier or group of
56 carriers affiliated by or under common ownership or control may, on behalf of all
57 of the carrier's or carriers' health benefit plan or plans providing coverage under
58 this section, directly pay the Part C early intervention system by January
59 thirty-first of the calendar year an amount equal to one-half of one percent of the

60 direct written premium for health benefit plans as reported to the department of
61 insurance on the health carrier's most recently filed annual financial statement,
62 or five hundred thousand dollars, whichever is less, and such payment shall
63 constitute full and complete satisfaction of the health benefit plan's obligation for
64 the calendar year. Nothing in this subsection shall require a health carrier or
65 health benefit plan providing coverage under this section to amend or modify any
66 provision of an existing policy or plan relating to the payment or reimbursement
67 of claims by the health carrier or health benefit plan.

68 8. This section shall not apply to a supplemental insurance policy,
69 including a life care contract, specified disease policy, hospital policy providing
70 a fixed daily benefit only, Medicare supplement policy, hospitalization-surgical
71 care policy, policy that is individually underwritten or provides such coverage for
72 specific individuals and members of their families, long-term care policy, or
73 short-term major medical policies of six months or less duration.

74 9. Except for health carriers or health benefit plans making payments
75 under subdivision (2) of subsection 7 of this section, the department of insurance
76 shall collect data related to the number of children receiving private insurance
77 coverage under this section and the total amount of moneys paid on behalf of such
78 children by private health carriers or health benefit plans. The department shall
79 report to the general assembly regarding the department's findings no later than
80 January 30, 2007, and annually thereafter.

81 **10. Notwithstanding the provisions of section 23.253, RSMo, to**
82 **the contrary, the provisions of this section shall not sunset.**

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